

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

THE BOARD OF TRUSTEES OF THE
LELAND STANFORD JUNIOR
UNIVERSITY,

Plaintiff,

v.

CHIANG FANG CHI-YI, et al.,

Defendants.

Case No. 13-cv-04383-BLF

ORDER RE MEDIATORS

On January 20, 2023, both Academia Historica (“AH”) and the Chiang-Hsiao Yen Family (“CHY Family”) filed documents identifying two proposed mediators and providing statements in support. *See* ECF No. 364 (“AH Proposal”), 365 (“CHY Family Proposal”). On January 25, 2023, the parties submitted oppositions, with AH and the Chiang-Hsiao Yen Family both objecting to both of the other side’s proposed mediators. *See* ECF No. 366 (“AH Opp.”), 367 (“CHY Family Opp.”).

The Court recognizes that all four individuals identified by the parties as proposed mediators are highly accomplished individuals who are experts in their fields. But the Court, having considered the oppositions, finds that its choice is not clear.

On the one hand, AH fairly recognizes that the Chiang-Hsiao Yen Family’s proposed mediators lack knowledge of the relevant law and history, which knowledge is integral to a successful mediation. AH Opp. at 2-3. Further, AH objects to the Chiang-Hsiao Yen Family’s proposal because neither of the identified mediators has Mandarin Chinese language capabilities, not to mention the significant cost of the Chiang-Hsiao Yen Family’s proposal, especially relative to AH’s proposal. *Id.* at 4-5. On the other hand, the Chiang-Hsiao Yen Family forcefully

1 contends a lack of neutrality by the AH candidates. CHY Family Opp. at 2-4. To the extent that
2 members of the Chiang-Hsiao Yen Family believe there would be bias against them, neither of
3 AH's proposed mediators could be successful.

4 The Court will require the parties to submit additional candidates who have demonstrated
5 mediation experience or legal training in the relevant fields. Mandarin Chinese language ability
6 and reasonable fees are also important considerations. The Court recommends law professors as a
7 possible source of qualified mediators.

8 Each party shall again identify two mediators. The parties must share their proposals with
9 each other, and each side may strike one of the other side's proposed mediators. Each side will
10 then be left with one individual to propose to the Court. The parties SHALL submit to the Court a
11 filing, with the names of those two individuals, as well as, for each, a CV, a daily or hourly rate,
12 and a statement as to why the party believes that individual is qualified and will be neutral and
13 effective. The parties SHALL file their proposals by February 17, 2023.

14 **IT IS SO ORDERED.**

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16 Dated: January 26, 2023

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18 BETH LABSON FREEMAN
19 United States District Judge
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